

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

DARRIN DAMON THOMPSON,)

Plaintiff,)

vs.)

Case No. CIV-14-390-HE

RICHARD STEPHENS, Chief)

Deputy; NURSE ALLY,)

Defendants.)

REPORT AND RECOMMENDATION

Plaintiff, a state prisoner appearing pro se, has filed this civil rights action pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights. The matter has been referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). By order dated April 21, 2014, Doc. 5, at 1, the undersigned noted that Plaintiff's application for leave to proceed in forma pauperis, Doc. 2, was deficient and advised Plaintiff that in order for his action to proceed, he must cure the deficiencies by May 11, 2014. On May 6, 2014, Plaintiff filed a second application, providing additional information that he had \$1,757.00 in his "prison/jail accounts." Doc. 6, at 2. But, he still did not include the required certification of his prison accounts for the full six-month period preceding the filing of his lawsuit. *See id.* at 3-4.

By order dated May 7, 2014, Doc. 7, at 1, the undersigned noted that Plaintiff's filing, Doc. 6, was deficient and advised Plaintiff that in order for his action to proceed, he must cure the deficiencies by May 27, 2014. The undersigned also advised Plaintiff that failure to comply could result in the dismissal of his action. Doc. 7, at 2.

To date Plaintiff has neither cured the deficiencies, nor shown good cause for his failure to do so, nor requested an extension of time to comply with the orders. The undersigned finds that Plaintiff's failure to comply with this Court's orders, together with the Court's right and responsibility to manage and control its case load, warrants dismissal of this action without prejudice. *See Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1161 n.2, 1162 (10th Cir. 2007) (noting the Court applies Fed. R. Civ. P. 41(b) to allow sua sponte dismissal for "failure to . . . comply with the rules of civil procedure or court's orders") (citation omitted).

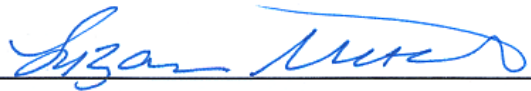
RECOMMENDATION

Therefore, the undersigned recommends that Plaintiff's action be dismissed without prejudice. Any objection to this Report and Recommendation must be filed with the Clerk of this Court on or before the 22nd day of June, 2014, in accordance with 28 U. S. C. § 636 and Federal Rules of Civil Procedure 72. Failure to make a timely objection to this

Report and Recommendation waives the right to appellate review of both the factual findings and the legal issues decided herein. *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

This Report and Recommendation disposes of all issues referred to the Magistrate Judge in the captioned matter.

ENTERED this 2nd day of June, 2014.



SUZANNE MITCHELL
UNITED STATES MAGISTRATE JUDGE